

IN THE SUPREME COURT OF THE STATE OF FLORIDA

CASE NO. SC11-405

**ANDRE FROST,**

Petitioner,

- versus -

**STATE OF FLORIDA,**

Respondent.

RESPONDENT'S BRIEF ON JURISDICTION

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## **Preliminary Statement**

Petitioner was the Defendant and Respondent was the Prosecution in the Criminal Division of the Circuit Court of the Nineteenth Judicial Circuit, in and for Okeechobee County, Florida. Petitioner was Appellant and Respondent was Appellee in the District Court of Appeal of Florida, Fourth District. In this brief, the parties shall be referred to as they appear before this Honorable Court except that Respondent may also be referred to as the State.

## **Statement Of The Case And Facts**

Noting that in determining jurisdiction, this Court is limited to the facts apparent on the face of the opinion, Frost v. State, --- So.3d ----, 2011 WL 222187 (Fla. 4<sup>th</sup> DCA 2011), Respondent accepts Petitioner's Statement of the Case and Facts.

## **Summary Of The Argument**

This Court is currently reviewing Harris v. State, SC08-1871 regarding the evidence required to support the reliability of a dog sniff alert, which provides probable cause to search. Therefore, under Jollie v. State, 405 So.2d 418 (Fla. 1981), this Court has jurisdiction to review the instant case.

## Argument

### **THE DECISION OF THE FOURTH DISTRICT COURT OF APPEAL IN THE INSTANT CASE CITES AS AUTHORITY A CASE THAT IS PENDING REVIEW IN THIS COURT.**

In the instant opinion by the Fourth District Court of Appeal, the district court relied on its decision in Laveroni v. State, 910 So. 2d 333 9Fla. 4<sup>th</sup> DCA 2005), which was followed by the 1<sup>st</sup> District Court of Appeal in Harris v. State, 989 So. 2d 1214 (Fla. 1<sup>st</sup> DCA 2008). As Petitioner has explained, Harris v. State, SC 08-1871, is currently pending in front of this Court regarding the identical issue presented in this case below. Therefore, the State agrees that this Court has jurisdiction to review the instant decision. See Jollie v. State, 405 So.2d 418 (Fla. 1981); Art. V, § 3(b)(3), Fla. Const. (1980).

## **Conclusion**

WHEREFORE, based on the foregoing argument and authorities, Respondent agrees that this Court should accept jurisdiction in this case, as it has in Harris v. State, SC08-1871.

Respectfully submitted,

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**Certificate Of Service**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Tatjana Ostapoff, Assistant Public Defender , 15<sup>th</sup> Judicial Circuit, Criminal Justice building, 421 Third Street, 6<sup>th</sup> Floor, West Palm Beach, Fl 33401 this 18<sup>th</sup> Day of March, 2011.

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MELANIE DALE SURBER  
Assistant Attorney General

**Certificate Of Type Size And Style**

In accordance with Fla. R. App. P. 9.210(a)(2), Respondent hereby certifies that the instant brief has been prepared with Times New Roman 14 point font.

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MELANIE DALE SURBER  
Assistant Attorney General

# APPENDIX